

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Telephone Number Portability |) | CC Docket No. 95-116 |
| |) | |
| Peoples Telecommunications, LLC |) | |
| Petition for Waiver of Section 52.23(c) |) | |
| Of the Commission's Rules |) | |

To: Chief, Wireline Competition Bureau

PETITION FOR WAIVER

Pursuant to Sections 1.3, 1.925 and 52.23(e) of the Commission's Rules,¹ Peoples Telecommunications, LLC (the "Petitioner") hereby requests waiver of the requirement for local exchange carriers (LECs) to implement local number portability (LNP) within six months after a request for such number portability. The Petitioner has received one request that would require the Petitioner to provide LNP by November 24, 2003.²

Background

The Petitioner is, by statutory definition³, a rural telephone company. Petitioner serves approximately 1,900 access lines within the following counties of Kansas: Linn and Miami. The LNP request attached to this Petition is the first LNP request, from either wireline or wireless carriers, received by the Petitioner.

1. The facts, as set out in the Commission's docket, demonstrate Petitioner's inability to meet the LNP deadline.

As the Commission recently reiterated, the Telecommunications Act of 1996 (the "Act") "and the Commission's rules impose broad porting obligations on LECs."⁴ The Act states that LECs "have a duty to provide, to the extent technically feasible, number portability *in accordance with requirements prescribed by the Commission*."⁵ The wireline-wireless Order then mandates "as

¹ 47 C.F.R. §§ 1.3, 1.925 and 52.23(e).

² The request, from Verizon Wireless, is attached to this Petition (Attachment A).

³ 47 U.S.C. § 153(37) (B) and (C). The Petitioner provides telephone exchange service, including exchange access, to fewer than 50,000 access lines and serves a study area of less than 100,000 access lines.

⁴ See *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, In the Matter of Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, CC Docket 95-116, FCC 03-284, adopt. November 7, 2003, rel. November 10, 2003, p. 9, (wireline-wireless Order).

⁵ 47 U.S.C. § 251(b) (emphasis added).

of November 24, 2003, LECs must port numbers to wireless carriers where the requesting wireless carrier's 'coverage area' overlaps the geographic location of the rate center in which the customer's wireline number is provisioned..."⁶

The Commission bases its latest requirement regarding LNP, in part, on the fact that LECs and wireless carriers have known since 1996 that LNP was to be required. Further, the Commission states that "several wireline carriers"⁷ are technically ready to provide LNP to wireless providers. The Commission references Verizon and Sprint as having porting agreements in place with their respective wireless affiliates.⁸

The Commission did first require LNP in an Order released July 2, 1996.⁹ However, the implementation schedule and rules set out in that Order and, indeed the Commission's authority to enforce LNP requirements on wireless carriers, have been subject to question for six years. The regulatory uncertainty continues today, as wireless carriers persist in advocating their position that the Commission is without the authority needed to enforce the LNP rules.¹⁰ Further, the Commission, within the wireline-wireless Order released November 10, 2003, first defines the circumstances surrounding wireline-wireless porting.¹¹ The Petitioner respectfully submits that to hold it responsible for implementing a rule within two weeks that has been the issue of six years of consideration and reconsideration by the Commission is extraordinarily unreasonable.

This very pleading is mired in regulatory uncertainty to an almost laughable extreme. The Petitioner files this pleading based on the wireline-wireless Order, which states that any carrier "inside the 100 largest MSAs...may file petitions for waiver of [its] obligation to port numbers to wireless carriers, if [it] can provide substantial, credible evidence that there are special circumstances that warrant departure from existing rules."¹² The Commission footnotes 47 C.F.R. §52.23(e),¹³ giving the requirements for a waiver. Unfortunately, for the Petitioner to be compliant with this section of the rules and file a timely waiver,¹⁴ as directed by the wireline-

⁶ Wireline-wireless Order, p. 10.

⁷ Wireline-wireless Order, p. 13.

⁸ Wireline-wireless Order, p. 10.

⁹ Telephone Number Portability, CC Docket 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996).

¹⁰ See *Emergency Motion for Stay of the CMRS LNP Deadline*, Telephone Number Portability, CC Docket No. 95-116, filed August 15, 2003 (emergency motion) and *Expedited Petition for Rulemaking to Rescind the CMRS LNP Rule*, Telephone Number Portability, CC Docket No. 95-116, filed June 16, 2003. Neither of these filings have been removed from the Commission's consideration and must be considered current pleadings.

¹¹ Wireline-wireless Order, p. 2 ("We find that porting from a wireline carrier to a wireless carrier is required where the requesting wireless carrier's 'coverage area' overlaps the geographic location of the rate center in which the customer's wireline number is provisioned...")

¹² Wireline-wireless Order, p. 13.

¹³ The Commission within the wireline-wireless Order cites 47 C.F.R. §52.25(e). As this section of the regulations discusses the database architecture and administration, the Petitioner believes the Commission intended to cite 47 C.F.R. §52.23(e), the section of the rules stating requirements for a waiver.

¹⁴ 47 C.F.R. §52.23(e) ("In the event a LEC is unable to meet the Commission's deadlines for implementing a long-term database method for number portability, it may file with the Commission **at least 60 days in advance of the deadline** a petition to extend the time by which implementation in its network will be completed.") (emphasis added)

wireless Order, it would have needed to file, by September 25, 2003, a petition to waive rules that it had no way of knowing until November 10, 2003.

The regulatory uncertainty surrounding the issue of LNP is not limited to the Commission. It has infected the entire process of preparing for LNP. For example, in a November 7 letter sent to the Petitioner, Verizon Wireless implies that a service level agreement (SLA) might *never* be executed between the Petitioner and itself.¹⁵ Verizon Wireless makes this claim to the Petitioner in spite of telling the Commission less than three months previous “[c]arriers *need* agreements covering number portability...”¹⁶

Other crucial factors to the LNP process, including cost recovery,¹⁷ were also delayed by the regulatory circumstances. In addition, Petitioner is concerned about other customer issues, such as informing the customer of the possible loss of E911 service upon porting a wireline number to a wireless carrier.

The Commission recognized that LNP “places real burdens on the carriers, particularly the small and rural carriers”¹⁸ and allowed LECs operating outside of the top 100 MSAs additional time (until May 24, 2004) “to prepare for implementation of intermodal portability.”¹⁹ The Petitioner, a rural telephone company as defined by the Act, should also be allowed the additional time. To compare the Petitioner to large LECs like Verizon or Sprint simply because of the counties where the Petitioner operates, is, again, extraordinarily unfair.

2. In spite of extreme regulatory uncertainty, Petitioner has attempted to meet the November 24 deadline.

The Petitioner has upgraded its switch in order to be able to provide LNP in the exchanges operated in Linn and Miami Counties. However, due to the regulatory uncertainty surrounding wireline- wireless LNP, the fact that the town in Linn and Miami County served by Petitioner has a total population of under 1,100, the affected exchanges serve a total of 1,900 access lines, and the fact that no requests for LNP were received before May 28, 2003, Petitioner was forced to make the business decision to delay the additional steps necessary to actually port local numbers. LECs may only recover costs of providing LNP from its end users and only from end users who “are reasonably able to begin *receiving* the direct benefits of long-term number portability.”²⁰ Noting the historical obligation of the Commission to minimize the regulatory burden placed on carriers,²¹ coupled with a lack of any near-term porting requests, the Petitioner

¹⁵ See Letter sent to Petitioner from Linda Godfrey, Verizon Wireless, dated Nov. 7, 2003 (“Whether or not an SLA is ultimately executed...” (Attachment C))

¹⁶ See Letter sent to Marlene Dortch, Federal Communications Commission from Marie Breslin, Verizon, dated August 21, 2003, *Ex Parte* communication, CC Docket 95-116, Attachment entitled “Verizon Wireless Number Portability Issues” (emphasis added).

¹⁷ 47 C.F.R. § 52.33(a)(1) allows for LNP-related costs to be recovered from the end-user, via a federally-tariffed charge.

¹⁸ See Separate Statement of Commissioner Kevin J. Martin attached to wireline-wireless Order.

¹⁹ Wireline-wireless Order, p. 13.

²⁰ Telephone Number Portability, Third Report and Order, CC Docket 95-116, 13 FCC Rcd 11701 (1998), para. 142 (emphasis added).

²¹ See Separate Statement of Commissioner Kevin J. Martin attached to wireline-wireless Order.

believed its greater responsibility rested within its duty to provide cost-effective service to its customers. Faced with an uncertain future requiring a high price that might never be recovered, Petitioner made the only financially reasonable choice - to delay additional operational implementation steps necessary for providing LNP. In addition, Petitioner notes that the total possible number of customers affected by the requested extension, approximately 1,100, comprises less than one-tenth of one percent of the total population of the Kansas City MSA²².

Petitioner cannot, with any degree of accuracy, estimate the additional costs of implementing intermodal LNP capability. Unfortunately, the costs necessary to provide intermodal LNP do not end with switch upgrades – Petitioner must also 1) negotiate service level, or other, agreements with requesting wireless carriers; 2) arrange for connectivity to the regional LNP database; 3) register with and arrange for connectivity to the Number Portability Administration Center (NPAC); 4) develop internal company operations procedures necessary to process LNP requests; 5) perform necessary testing of all hardware, software, and operational processes, and 6) determine the proper method of cost recovery related to the implementation of intermodel LNP. Costs are involved with each of the above steps, and, in addition, Petitioner will incur the added costs of querying the regional LNP database for all calls made from the switches referenced above.

3. Affected switches

As stated above, Petitioner operates one switch that provides services in the Kansas City, Kansas MSA counties of Linn and Miami²³. The switch affected by this petition operates in the town of La Cygne, Kansas. See Attachment B for a list of the affected switches and CLLI codes.

4. The Petitioner simply requests what the Commission has previously given other rural LECs.

With this pleading, the Petitioner does not seek to escape the obligation of providing LNP nor does it wish to deprive its customers of a potential benefit. Indeed, it is due, in part, to a sense of customer service that the Petitioner now finds itself unable to meet the LNP deadline. Rather, Petitioner simply seeks the same treatment afforded by the Commission to other rural LECs.

“We recognize, however, that many wireline carriers outside of the top 100 MSAs may require some additional time to prepare for implementation of intermodal portability. ... Therefore, for wireline carriers operating in areas outside of the 100 largest MSAs, we hereby waive, until May 24, 2004, the requirement that these carriers port numbers to wireless carriers that do not have a point of

²² Petitioner notes that it is unknown how many customers Verizon serves in this town, or how many Verizon customers would desire to port their wireline number as of 11/24/03.

²³ See List of MSAs attached to the FCC’s 11/10/03 Update to Wireless Local Number Portability Consumer Fact sheet; Counties contained in the Kansas City MSA were obtained from the Office of Management and Budget’s Bulletin 03-04, “Revised Definitions of Metropolitan Statistical Areas...”

interconnection or numbering resources in the rate center where the customer's wireline number is provisioned.”²⁴

The Petitioner does not understand how the boundaries of counties dictate additional time to some rural LECs, and yet, forces other rural LECs, faced with similar circumstances, to implement LNP six months earlier. The Petitioner requests a waiver of the November 24 deadline and that its new LNP deadline, as it is for other rural LECs, be May 24, 2004.

5. Additional milestones in the LNP process.

While achievement of the items listed below depends equally on the Petitioner and the requesting wireless carrier, the Petitioner hereby submits the following milestones:

1. Negotiate Service Level Agreement with requesting wireless carrier(s)
2. Arrange for connectivity to regional LNP database
3. Register with NPAC
4. Develop internal company process for processing wireline to wireless porting requests.
5. Perform testing of switch software, hardware, and operational processes

Petitioner expects the above process to take at least six months to complete.

Conclusion

The Petitioner has met the requirements for an extension pursuant to 47 C.F.R. ¶ 52.23(e) and should be granted such an extension for implementing wireline to wireless LNP until May 24, 2004. Petitioner, while providing service to exchanges within the Kansas City, Kansas MSA, does not serve areas that could reasonably be considered “metropolitan” in population or density. As a result, it is in the public interest to delay LNP implementation in the Petitioner's service areas until all technical, operational, and consumer interest issues may be properly addressed.

²⁴ Wireline-wireless Order, p. 13.

Accordingly, Petitioner requests that the Commission grant this pleading.

Respectfully submitted,
Peoples Telecommunications, LLC

By: [electronically filed]
Chris Barron
Karen Twenhafel
Its Consultants

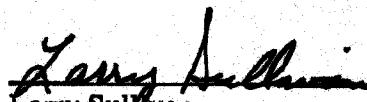
TCA, Inc.
1465 Kelly Johnson Boulevard
Suite 200
Colorado Springs, CO 80920
(719) 266-4334

November 24, 2003

DECLARATION OF PEOPLES TELECOMMUNICATIONS, LLC

I, Larry Sullivan, General Manager of Peoples Telecommunications, LLC. (Peoples), do hereby declare under penalty of perjury that I have read the foregoing Petition for Waiver and the attachments and that the information contained herein regarding Peoples is true and accurate to the best of my knowledge, information and belief.

Date: 11-21-03



Larry Sullivan
General Manager

Network Operations Support



May 28, 2003

Peoples Mutual Telephone Co.
P.O. Box 186
Lacygne, KS 66040

Verizon Wireless
Interconnection/Numbering/Mandates
2785 Mitchell Drive MS 7-1
Walnut Creek, CA 94598

Attn: Frank Mowry,

Consistent with the rules of the Federal Communications Commission ("FCC"), on November 24, 2003, Verizon Wireless will begin competitive porting by offering customers local number portability ("LNP").⁴⁸⁵ The FCC sought to simplify the task of identifying the switches in each MSA in which number portability is deployed and to facilitate competitive entry.⁴⁸⁶ The FCC's rules require local exchange carriers to make available, upon request by any interested party, a list of their switches for which provisioning of number portability has been requested (and therefore provided) and a list of their switches for which provisioning of number portability has not been requested.⁴⁸⁷ Verizon Wireless requires only a list of switches and NPA-NXX codes for which provisioning of LNP has not been requested.

Verizon Wireless has simplified this request by attaching a form containing a list of switches and codes for your review. This list was derived by using the LERG and comparing it to Verizon Wireless's licensed service areas. The list identifies the switch CLLI and NPA-NXX codes that Verizon Wireless believes are not yet LNP capable. Please review and update the attached form, making any necessary changes or additions to the list regarding switches and codes that have not been marked portable. Please indicate the date by which the switch and codes will be LNP capable.⁴⁸⁸ Any comments can be made in the column provided on the form.

Verizon Wireless requests that you review, update and return the attached form to the undersigned contact within 10 days of receipt. Please call the undersigned with any questions or concerns.

Linda Godfrey
Verizon Wireless
Interconnection, Numbering and Mandates

925-279-6570

Enclosures

⁴⁸⁵ See 47 C.F.R. § 52.31.

⁴⁸⁶ Local Number Portability, *First Memorandum Opinion and order on Reconsideration*, 12 FCC Rcd. 7236, ¶¶59-66 (1997).

⁴⁸⁷ *Id.* at ¶64; 47 C.F.R. § 52.23(b)(2)(iii).

⁴⁸⁸ The timeframes for conversion to LNP of any additional switches are governed by the FCC's rules and range from 30 days to 180 days, depending upon the status of the switches (*i.e.*, equipped remote, hardware capable, capable switches requiring hardware, and non-capable). 47 C.F.R. § 52.23 (b)(2)(iv)(A-D).

Bonafide Request Form (BFR)

Purpose:

The purpose of this letter is to request the deployment of long-term Local Number Portability as defined by the FCC. Specifically, this form requests that ALL codes serving the Metropolitan Statistical Areas be opened for portability in the LERG and the NPAC and ALL switches serving these areas are LNP capable.

Note: MSAs refers to the identified U.S. Census Bureau MSAs for 2000. These may differ from the MSAs as separately defined by the wireless or wireline industries. In those instances where no MSA has been identified, please reference Rate Center to ensure switches and NPA-NXXs serving those areas are opened for porting.

TO (RECIPIENT):

If LERG contact info is
incorrect, please change below.

Company Name: _____

Contact Name: _____

Contact's Address: _____

Contact's _____

Email: _____

Contact's Fax: _____

Contact's Phone: _____

FROM (REQUESTOR):

Company Name: Cellco Partnership d/b/a
Verizon Wireless

Contact Name: Linda Godfrey

Contact's Address: 2785 Mitchell Drive
Walnut Creek, CA 94598
Building 7-1, 7111G

Contact's Email:
Linda.Godfrey@Verizonwireless.com

Contact's Fax: 925-279-6621

Contact's Phone: 925-279-6570

Timing:

Date of Request: May 19, 2003

Receipt Confirmation
Due By: May 29, 2003 (*Due no later than 10 days after the date of the request.*)

Effective Date: November 24, 2003 or May 24, 2004 pursuant to the FCC rules

Wireline Bonafide Request form (BFR) for Local Number Portability Peoples Mutual Telephone Co. Nonportable NPA-NXXs and CLLIs

| COC TYPE | ST | RATE_CNTR | PORTABLE | NPA | NXX | Date NPA-NXX marked Portable | Comments | SOF 38-LNP | SWITCH | Date Portable | Comments |
|----------|----|------------|----------|-----|-----|------------------------------|----------|------------|-------------|---------------|----------|
| EOC | KS | LA CYGNE | N | 913 | 757 | | | - | LACYKSXADS0 | | |
| EOC | VA | RENAN | N | 434 | 335 | | | - | RENNVAXARS0 | | |
| EOC | VA | GRETNA | N | 434 | 656 | | | - | GRETVAXADS0 | | |
| EOC | VA | SANDYLEVEL | N | 434 | 927 | | | - | SNLVVAXARS0 | | |
| EOC | VA | HURT | N | 434 | 324 | | | - | HURTVAXARS1 | | |
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Peoples Telecommunications, LLC.
47 C.F.R. § 52.23(e) Petition for Extension
November 24, 2003

Attachment B

| Rate Center | State | County | MSA | NPA/NXX | CLLI |
|--------------------|--------------|---------------|----------------|----------------|-------------|
| La Cygne | KS | Linn/Miami | Kansas City | 913/757 | LACYKSXARS0 |

Interconnection/Numbering/Mandates



Verizon Wireless
2785 Mitchell Drive MS 7-1
Walnut Creek, CA 94598

A handwritten signature in cursive script, appearing to read "Fila Caplinger".

11-12-03

November 7, 2003

IMMEDIATE ATTENTION REQUESTED

Peoples Mutual Telephone Co.
208 North Broadway
Lacygne, KS 66040

Re: Local Number Portability

Dear Frank Mowry:

The FCC has recently reiterated the pre-existing deadlines for local number porting. Verizon Wireless Cellco Partnership d/b/a Verizon Wireless would like to complete a Service Level Agreement (SLA) to ensure a smooth transition to number portability by establishing procedures to govern the exchange of information during the porting process. Specifically, an SLA would serve several purposes: memorialize the intercarrier communications processes that the two carriers intend to follow, capture appropriate porting center and trouble contacts, and contain the parties' agreement to successfully facilitate porting customers. If you have not already received a copy of our SLA, you can obtain one by contacting Sharon Canas at 925-279-6122 or email Sharon.Canas@VerizonWireless.com.

If negotiating an SLA is not possible in the next few weeks before the LNP deadline, Verizon Wireless's immediate concern is in obtaining, at minimum, a Trading Partner Profile (TPP). The TPP would provide basic factual information necessary to accomplish portability and would include those entities covered by the profile and any back-office or porting center contacts. Verizon Wireless plans to integrate this information into its information systems and also provide it to personnel staffing our porting center. Whether or not an SLA is ultimately executed, sharing this type of factual information is necessary to facilitate porting as well as fallout resolution. In this regard, we have enclosed a copy of the TPP.

Please include a response to this request along with a point of contact for provision of TPP information and/or SLA discussions in a letter or email addressed to the undersigned. Thank you for your immediate attention and cooperation.

A handwritten signature in cursive script, appearing to read "Linda Godfrey".

Linda Godfrey
Member of Technical Staff
Interconnection Numbering and Mandates
Headquarters Network Operations Staff

Enclosure